

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO
RULES OF FAMILY LAW PROCEDURE
106, 201, 504 and 803

ORDER AMENDING
RULES

The Court having reviewed a recommendation to amend Idaho Rules of Family Law Procedure, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that Idaho Rules of Family Law Procedure, as they appears in the volume published by the Idaho Code Commission, be, and are hereby, amended as follows:

1. That Rule 106 be, and the same is hereby, amended as follows:

Rule 106. Consolidation

C. Consolidation of child support and custody cases. If a domestic relations case involving custody is filed in the proper venue, and there is a previous case involving only child support in the same county or a different county, a motion to consolidate a case involving only child support with a domestic relations case involving custody may be presented to filed and ruled upon by the judge assigned to preside over the domestic relations case, to whom either action has been assigned. In the event the motion is granted, the order shall specify that the actions are consolidated under the case number assigned to the action involving custody and all future papers shall be filed under that case number. All further action with regard to the consolidated cases shall be heard by the judge who is assigned the action involving custody.

2. That Rule 201 be, and the same is hereby, amended as follows:

Rule 201. Commencement of Action.

C. Proceedings to modify child custody, child support and spousal maintenance. A proceeding to modify child custody, child support, or spousal maintenance (alimony) is commenced by filing a petition in the original action. The petition shall be in a form similar to an original petition and shall be served upon all parties entitled to service along

with (1) a summons and (2) any notices, forms and orders issued by the court at the time of filing of the motion. The method of service and return thereon shall be the same as for an original action and service shall be on the opposing party rather than on the previous attorney of record for the party. All averments of substantial and material changes in circumstances supporting a motion to modify child custody shall be stated with particularity. A motion~~The petition to modify child custody, child support or spousal maintenance (alimony)~~ shall be served and adjudicated in substantially the same manner as an original proceeding, but the filing of a ~~motion~~ petition to modify a child custody, child support or spousal maintenance ~~orders~~ judgment shall not be deemed the commencement of an action under Idaho Code Section 5-404 and there shall be no right for an existing party in the lawsuit to disqualify the judge without cause pursuant to Rule 107 if that judge had previously presided in the lawsuit and had not been disqualified. The motion shall be in a form similar to an original petition and shall be served upon all parties entitled to service along with (1) a summons and (2) any notices, forms and orders issued by the court at the time of filing of the motion. The method of service and return thereon shall be the same as for an original action and service shall be on the opposing party rather than on the previous attorney of record for the party. All averments of substantial and material changes in circumstances supporting a motion to modify child custody shall be stated with particularity. The petition to modify shall be resolved by the entry of a judgment as provided in Rule 803.B. All orders issued in adjudicating the motion to modify prior to the entry of the judgment are interlocutory orders.

3. That Rule 504 be, and the same is hereby, amended as follows:

Rule 504. Motions for Temporary Orders – Mandatory Disclosure.

D. Temporary orders. A temporary order issued pursuant to Idaho Code Sections 32-704 or 32-717 is not a judgment. It need not comply with Rule 803 and cannot be certified as final pursuant to Rule 804.

4. That Rule 803 be, and the same is hereby, amended as follows:

Rule 803. Judgments –~~Definition~~–Form–

A. Definition and form in general. "Judgment" as used in these rules means a separate document entitled Judgment or Decree. A judgment shall state the relief to which a party is entitled on one or more claims for relief in the action. Such relief can include dismissal with or without prejudice. A judgment ~~shall~~ should not contain a recital of pleadings, the report of a master, the record of prior proceedings, courts legal reasoning, findings of fact, or conclusions of law. A judgment is final if either it is a partial judgment that has been certified as final pursuant to Rule 804 or judgment has been entered on all claims

for relief, except costs and fees, asserted by or against all parties in the action. A judgment or partial judgment shall should begin with the words "JUDGMENT IS ENTERED AS FOLLOWS:" and it shall should not contain any other wording between those words and the caption. A judgment can include any findings of fact or conclusions of law expressly required by statute, rule, or regulation.

B. Judgments in proceedings to modify child custody, child support and spousal maintenance. An order granting or denying a motion to modify a child custody, child support, or spousal maintenance provision in a prior judgment shall not be final until an appropriate judgment granting or denying relief regarding such motion has been entered. If the motion is granted, the court must enter a judgment setting forth the modification to the prior judgment, but the judgment granting the modification need not include the provisions in the prior judgment that were not modified. If the motion is denied, the court must enter a judgment denying the requested modification. In either case, the judgment regarding the motion to modify may identify and refer to the prior judgment.

C. Judgments involving self-represented litigants. Self-represented litigants shall use the judgment forms prepared by the court assistance office and approved by the Supreme Court.


IT IS FURTHER ORDERED, that this order and these amendments shall be effective April 15, 2015.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Rules of Family Law Procedure.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 2 day of April, 2015.

By Order of the Supreme Court


Daniel T. Eismann, Vice Chief Justice of the Supreme Court of Idaho, do hereby certify that the above is a true and correct copy of the 4215 entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court

ATTEST:


Clerk

STEPHEN W. KENYON

Clerk